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COMMITTEE ON THE RIGHTS OF THE CHILD
Twenty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Costa Rica

1. The Committee considered the second periodic report of Costa Rica (CRC/C/65/Add.7) at its 595th and 596th meetings (see CRC/C/SR. 595-596), held on 14 January 2000, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission on 20 January 1998 of the State party's second periodic report. However, it notes that the State party's report did not follow the guidelines for periodic reports established by the Committee, with the result that it did not sufficiently cover important areas of the Convention, such as general principles, civil rights and freedoms, and family environment and alternative care. The Committee takes note of the written replies to its list of issues (CRC/C/Q/COS.2), while regretting their late submission. The Committee is encouraged by the constructive, open and frank dialogue it had with the State party's delegation and welcomes the positive reactions to the suggestions and recommendations made during the discussion. The Committee acknowledges that the presence of a delegation directly involved in the implementation of the Convention allowed for a fuller assessment of the situation of the rights of children in the State party.

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* At the 615th meeting, held on 28 January 2000.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the State party's accession to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and to the 1994 Inter-American Convention against the International Traffic in Minors.

4. The Committee welcomes the signing of a memorandum of understanding (1996) between the State party and the International Labour Organization (ILO)/International Programme for the Eradication of Child Labour (IPEC), for implementing a programme for the eradication of child labour.

5. In the light of its recommendations (see CRC/C/15/Add.11, paras. 11 and 15), the Committee welcomes the enactment of the Children and Adolescents Code (1998) and the participation of non-governmental organizations in the drafting of the Code. The Committee also welcomes the enactment of additional legislation on children's rights-related issues, such as the Law for Equal Opportunities for the Disabled (1996), the Law on Juvenile Justice (1996), the Maintenance Payment Act (1996) and the Law for the Protection of Adolescent Mothers (1997).

6. The establishment of a Children and Adolescents section, under the Office of the Ombudsman (Defensor del Pueblo), is considered as a positive measure, in accordance with the Committee's recommendation (CRC/C/15/Add.11, paras. 7 and 11). In this regard, the Committee also welcomes the fact that the Office of the Ombudsman has established a Permanent Forum for the Evaluation of the Implementation of the Children and Adolescent Code, which functions with the participation of civil society.

7. With regard to its recommendation (see CRC/C/15/Add.11, paras. 7 and 11) concerning the need to strengthen the State party's coordination and monitoring mechanisms for the implementation of the Convention, the Committee welcomes the creation of the National System for the Integral Protection of Children, and the National Council on Children and Adolescents, and the enactment of the Organic Law on the National Children's Trust (Patronato Nacional de la Infancia-PANI) (1996).

8. The establishment of the Ministry of Women's Affairs and the enactment of the Law against Domestic Violence (1996) and the Law on the Equality of Women are regarded as important contributions to the prevention and treatment of violence against children in general and as significant support to the improvement of the situation of girls in particular, in line with the Committee's recommendation (see CRC/C/15/Add.9 and 16).

C. Factors and difficulties impeding further progress in the implementation of the Convention

9. The Committee notes that poverty and socio-economic and regional disparities within the State party are still affecting the most vulnerable groups, including children, and hamper the enjoyment of the rights of the child.

D. Principal subjects of concern and Committee recommendations

D.1. General measures of implementation

Legislation and institutional reform

10. Although the Committee welcomes the enactment of the Children and Adolescents Code (1998) and other related legislation, which are in line with the Committee's recommendation (see CRC/C/15/Add.11, para. 11), it remains concerned about the insufficient allocation of resources, both human and financial, to support the process of institutional reform necessary to guarantee the full implementation of this legislation. **The Committee recommends that the State party continue taking effective measures to carry out the necessary institutional reform to guarantee the full implementation of the Children and Adolescents Code and other legislation related to the rights of the child. In this regard, the Committee encourages the establishment of the Children and Adolescents Protection Boards (Juntas de Protección a la Niñez y Adolescencia) as decentralized institutions to guarantee the implementation of the Code. Furthermore, the Committee recommends that the State party take all necessary steps, including international cooperation, to provide PANI and the Protection Boards with adequate financial and human resources to enable them to carry out their mandate in an effective manner.**

Coordination and monitoring

11. While noting the measures taken by the State party to establish adequate coordination between various entities dealing with issues relating to children, both at the national and local levels, the Committee is still concerned about the inadequate levels of representation of all actors and sectors in these coordination mechanisms. **The Committee recommends that the State party take effective measures to guarantee broader representation of all actors involved in the implementation of the Convention in the existing coordinating and monitoring mechanisms (e.g., Council on Children and Adolescents, Children and Adolescents Protection Boards), including at the municipal level, in order to strengthen their role.**

Data collection system

12. With regard to the implementation of the Committee's recommendation (CRC/C/15/Add.11, para.12) concerning the need to develop a data collection system on children's rights, and taking into consideration the measures taken by the State party in this area, the Committee remains concerned about the lack of national disaggregated data on all the areas covered by the Convention. **The Committee recommends that the State party continue reviewing and updating its data collection system, with a view to including all areas covered by the Convention. Such a system should include all children under 18 years of age and specifically emphasize vulnerable groups of children as a basis for assessing progress achieved in the realization of children's rights and for helping design policies for better implementation of the provisions of the Convention. In this regard, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.**

Training for professionals

13. While noting with appreciation the information on the conduct of training programmes for professionals working with and for children, the Committee is of the opinion that such measures need to be reinforced. **The Committee recommends that the State party continue with its efforts to undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers. Technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF could be sought in this regard.**

Allocation of budgetary resources

14. Although the Committee welcomes the adoption of National Plans of Action for Children and Adolescents and of the National Plan for Human Development, it remains concerned at the cuts in social expenditure in the national budget, as a result of the recent economic reforms, and at their negative impact on health, education and other traditional welfare areas for children. **In the light of articles 2, 3 and 4 of the Convention, the Committee reiterates its recommendation (see CRC/C/15/Add.11, para. 13) and further recommends that the State party take effective measures to allocate the maximum extent of available resources for social services and programmes for children, and that particular attention be paid to the protection of children belonging to vulnerable and marginalized groups.**

D.2 General principles

The right to non-discrimination (art. 2)

15. With regard to the implementation of article 2 of the Convention, the Committee expresses its concern at the manifestations of xenophobia and racial discrimination against immigrants, particularly children belonging to Nicaraguan families residing illegally in the State party's territory; at the marginalization of children belonging to indigenous populations and to the Black Costa Rican ethnic minority; and at the regional disparities, in particular between the developed Central Valley and the less developed coastal regions and border areas. **The Committee recommends that the State party increase measures to reduce socio-economic and regional disparities; and to prevent discrimination against the most disadvantaged groups of children, such as the girl child, children with disabilities, children belonging to indigenous and ethnic groups, children living in and/or working on the streets and children living in rural areas. Furthermore, the Committee also recommends that the State party undertake educational campaigns to raise awareness in order to prevent and combat discrimination on the grounds of gender, ethnic and/or national origin. In this regard, the Committee endorses the recommendations made by the Human Rights Committee (CCPR/C/79/Add.107) and the Committee for the Elimination of Racial Discrimination (CERD/C/304/Add.71).**

D.2 Civil rights and freedoms

16. The Committee notes with appreciation that the State party's domestic legislation has integrated provisions guaranteeing the participatory rights of children. However, it remains concerned that, in practice, these rights are not sufficiently implemented at the various levels of Costa Rican society. **In the light of articles 12 to 17 and other related articles of the Convention, the Committee recommends that further efforts be made to ensure the implementation of the participatory rights of children, especially their rights to participate in the family, at school, within other institutions and in society in general. Awareness raising among the public at large, as well as educational programmes on the implementation of these principles, should be reinforced in order to change traditional perceptions of children as objects and not as subjects of rights.**

17. The Committee expresses its concern about the inadequate enforcement of the prohibition on the use of corporal punishment in schools and other institutions and in the penal system. In addition, the Committee expresses its concern that the practice of physical punishment of children in the home is not expressly prohibited by law and remains regarded as socially acceptable. **The Committee recommends that the State party prohibit the use of corporal punishment in the home and take effective measures to enforce the legal prohibition of corporal punishment in schools and other institutions and in the penal system. The Committee further recommends that the State party undertake educational campaigns for the development of alternative disciplinary measures for children at home, in schools and other institutions.**

18. Although the Committee is aware that the State party's domestic legislation has included the right of the child to physical integrity (Children and Adolescents Code, art. 24) and that no cases of torture of children have been reported in the State party, concern is expressed at the lack of explicit legislation prohibiting the use of torture and that no sanction is provided in the legislation for those responsible for torture. **In the light of article 37 (a), the Committee recommends that the State party include a provision in its domestic legislation prohibiting children from being subjected to torture and establishing appropriate sanctions against the perpetrators of torture.**

D.3 Family environment and alternative care

Domestic and intercountry adoption (art. 21)

19. The Committee notes the amendments to the State party's legislation on adoption, in line with the Committee's recommendation (see CRC/C/15/Add.11, para. 14). However, the current legislation on adoption does not seem to comply fully with the requirements of the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, to which Costa Rica is a party. **The Committee recommends that the State party take further measures to reform its legislation, in accordance with the requirements of the above-mentioned Hague Convention, to which Costa Rica is a party.**

Child abuse, neglect, maltreatment and violence (art. 19)

20. While the Committee takes note of the State party's efforts to prevent and combat cases of abuse and ill-treatment of children, it is of the opinion that these measures need to be reinforced. Concern is also expressed at the insufficient awareness regarding the harmful consequences of neglect and abuse, including sexual abuse, both within and outside the family. Concern is also expressed at the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel, to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for victims, and their limited access to justice are also matters of concern. **In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including reinforcing current multidisciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced, in order to provide children with prompt access to justice and to avoid the impunity of offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF and international non-governmental organizations.**

D.4 Basic health and welfare

Right to health and access to health services (art. 24)

21. The Committee welcomes the State party's efforts to fulfil the goals set by the World Summit for Children. However, it remains concerned about regional inequalities in access to health services, as well as in immunization coverage and infant mortality rates. **The Committee recommends that the State party continue taking effective measures to ensure access to basic health care and services for all children.**

Adolescent health (art. 24)

22. With regard to adolescent health issues (see CRC/C/15/Add.11, para. 16), while taking note of the measures taken by the State party in this field, the Committee remains concerned at the high and increasing rate of teenage pregnancies; at the insufficient access by teenagers to reproductive health education and counselling services, including outside school; and at the increasing rate of substance abuse among adolescents. **The Committee recommends that the State party undertake effective measures to develop adolescent friendly health policies and strengthen reproductive health education and counselling services in order, inter alia, to prevent and reduce teenage pregnancies. The Committee also recommends that further efforts be undertaken for the development of child friendly counselling services, as well as care and rehabilitation facilities, for adolescents. Measures to prevent and combat substance abuse among adolescents should be strengthened.**

Children with disabilities (art. 23)

23. While the Committee welcomes the fact that the State party has established a special programme to protect the rights of children with disabilities, it remains concerned at the lack of adequate infrastructure, the limited qualified staff and the specialized institutions for these children. **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its Day of General Discussion on Children with Disabilities (CRC/C/69), the Committee recommends that the State party develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce discrimination against them, establish special education programmes and centres as needed and encourage their inclusion in the educational system and in society, and establish adequate monitoring of private institutions for children with disabilities. The Committee further recommends that the State party seek technical cooperation for the training of professional staff working with and for children with disabilities.**

D.5 Education, leisure and cultural activities

24. With regard to education, the Committee welcomes the fact that the State party's budget allocation to education is one of the highest among developing countries and that measures are being taken, in cooperation with the World Bank (Basic Education Project), to improve primary education, specially for children living in rural and marginal areas. However, the Committee remains concerned that there is an increase in students' drop-out rates between primary and secondary school, due to the limited relevance of the school curricula, as well as to economic and social factors, such as the early insertion of children in the informal labour market. Concern is also expressed about discrepancies in access to education between urban and rural areas and the decrease in the quality of schools infrastructure. **The Committee recommends that the State party continue with its efforts in the field of education by strengthening its educational policies and system in order to reduce regional disparities in access to education and to establish retention programmes and vocational training for drop-out students. The Committee further recommends that the State party conduct continuous training programmes for teachers on human rights, including children's rights. The Committee encourages the State party to consider seeking technical assistance in this area, inter alia from UNESCO and UNICEF.**

D.6 Special protection measures

Children belonging to minority and indigenous groups (art. 30)

25. The Committee remains concerned about the living conditions of children belonging to indigenous and ethnic minority groups, especially with regard to the full enjoyment of all the rights enshrined in the Convention. Concern is also expressed about the precarious situation of children belonging to Nicaraguan families illegally residing in the State party's territory. **In the light of articles 2 and 30 of the Convention, the Committee recommends that the State party take effective measures to protect children belonging to indigenous and ethnic**

minority groups, as well as children of Nicaraguan families in irregular situations, against discrimination and to guarantee their enjoyment of all the rights recognized by the Convention on the Rights of the Child.

Economic exploitation (art. 32)

26. While welcoming the measures taken for the elimination of child labour, the Committee is concerned that economic exploitation remains one of the major problems affecting children in the State party. The Committee expresses concern at the insufficient law enforcement and the inadequate monitoring mechanisms to address this situation. **In the light of, inter alia, articles 3, 6 and 32 of the Convention, the Committee recommends that the State party continue working in cooperation with ILO/IPEC to implement the national plan for the elimination of child labour and that it undertake all the actions envisaged in the Memorandum of Understanding signed between the State party and ILO/IPEC. The situation of children involved in hazardous labour, especially in the informal sector where the majority of working children are found, deserves special attention. In this regard, the Committee encourages the State party to ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999). The Committee, finally, recommends that child labour laws should be fully enforced, labour inspectorates strengthened and penalties imposed in cases of violation.**

Sexual exploitation and abuse (art. 34)

27. The Committee expresses its concern at the high incidence of commercial sexual exploitation of children in the State party, apparently often related to sex tourism. In this regard, while the Committee appreciates the measures taken to prevent and combat sexual abuse and exploitation of children, such as the reforms of the Penal Code (Law 7899 of 1999) and the adoption of a plan of action to tackle this issue, it is of the opinion that these measures need to be reinforced. **In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to strengthening current policies and measures, including in the area of care and rehabilitation, in order to prevent and combat this phenomenon. The Committee recommends that the State party take into account the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996.**

Administration of juvenile justice (arts. 37, 40, and 39)

28. With regard to the administration of juvenile justice, the Committee welcomes the State party's measures to implement the Committee's recommendations (CRC/C/15/Add.11, para. 15). However, the Committee remains concerned, inter alia, that the new Law on Juvenile Justice (1996) has not yet been fully implemented; that there is an insufficient number of specialized judges; that there is only one specialized centre for children in conflict with the law; that there is a lack of adequate training for the police on the Convention and other relevant international standards; that a large number of children are placed in pre-trial detention; and that the penalties imposed on children in conflict with the law are disproportionately heavy in relation to the nature of the offences. **The Committee recommends that the State party**

continue undertaking effective measures to overcome these and other obstacles in fully implementing its juvenile justice system in accordance with the Convention, especially articles 37, 40 and 39, and other relevant international standards, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. In this regard, the Committee suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Juvenile Justice.

Dissemination of the report (art. 44)

29. **Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**